Bartholomew v. *Jackson*, 20 Johns. (N. Y.) 28. *Contra*, *Chase* v. *Corcoran*, 106 Mass. 286. In the principal case the defendant's acquiescence in the service was obtained by the fraud of Pierce, who was either the agent or the principal of the plaintiffs. If the former, they would be barred by his fraud. *Elwell* v. *Chamberlin*, 31 N. Y. 611. The consent thus obtained would be nugatory, and the plaintiffs would be in the position of one who officiously confers benefits on another and so cannot recover. *Boston Ice Co.* v. *Potter*, 123 Mass. 28. If Pierce was the plaintiffs' principal, they were working for him and should not be allowed to charge the defendant for it. See KEENER, QUASI-CONTRACTS, 350. On either assumption, therefore, the decision seems erroneous.

RECEIVERS — RIGHT OF EXONERATION: WHETHER SUBJECT TO SET-OFF ON EQUITABLE EXECUTION BY CREDITORS. — A receiver was appointed for a company, and gave a bond with sureties conditioned on his duly accounting for what he received or became liable to account for as receiver. He incurred trade liabilities for which he was entitled to be indemnified by the estate, to the extent of £900, but his cash account was deficient by £400, which he was unable to pay. The trade creditors claimed that the estate was liable to them for £900 and that it could recover £400 from the sureties for the receiver's default. *Held*, that the sureties are not liable, and that the creditors can recover only £500. *In re British Power Traction and Lighting Co., Limited*, [1910] 2 Ch. 470.

If the receiver was in default to the estate, the sureties are liable. The decision therefore depends on whether there can be a set-off. This involves a consideration of the nature of the creditors' claim against the estate. It is sometimes intimated that the estate is directly liable for goods supplied to the receiver for the benefit of the estate. See *Knickerbocker* v. *McKindley Coal & Mining Co.*, 172 Ill. 535. If this were strictly true, the creditors in the principal case would be entitled to the relief asked for. But the creditors' right is really based on the receiver's right to exoneration, and is in the nature of an equitable execution. See 14 HARV. L. REV. 67. They gave credit to the receiver, and the liability of the estate runs to him. *Hendrie & Bolthoff Mfg. Co.* v. *Parry*, 37 Col. 359; *Stuart* v. *Boulware*, 133 U. S. 78. The receiver's right of exoneration is cut down by any liability which he is under to the estate, and the creditors' right suffers the same fate. *In re Johnson*, 15 Ch. D. 548. The sureties are not liable because the account between the receiver and the estate is in favor of the former. Therefore, the equities being equal, the loss must fall on the creditors. But see *Commonwealth* v. *Gould*, 118 Mass. 300.

REFORMATION OF INSTRUMENTS — REFORMATION FOR MISTAKE OF LAW. — A mortgage-tax statute declared that no conveyance could be effective as security unless that purpose appeared in the deed. A, being indebted to B, conveyed land to him by an absolute deed, and a separate contract was made by which B agreed to reconvey on payment of the debt. The parties intended the transaction to have the effect of a mortgage, and both were ignorant of the statute. *Held*, that the deed be reformed. *Forest Lake State Bank* v. *Ekstrand*, 128 N. W. 455 (Minn.). See NOTES, p. 394.

RESTRAINT OF TRADE — MONOPOLY — AGREEMENT BETWEEN COMPETITORS TO SELL AT CERTAIN PRICE. — Competitors in the city of Cork and vicinity agreed among themselves not to sell liquors in that territory below certain fixed prices. The prices fixed were reasonable. *Held*, that, as the agreement is reasonable, it is not invalid as in restraint of trade. *Cade & Sons* v. *Daly & Co.*, [1910] 1 I. R. 306.

Contracts by a vendor of a business not to engage in the same business are unlawful only if unreasonable. *Anchor Electric Co.* v. *Hawkes*, 171 Mass. 101.

But contracts between competitors fixing prices are almost universally declared invalid because restricting competition and tending toward monopoly. *Cummings* v. *Union Blue Stone Co.*, 164 N. Y. 401; *Nester* v. *Continental Brewing Co.*, 161 Pa. St. 473. In these cases the test of reasonableness is not involved; except that if it has no tendency at all toward monopoly the contract is valid. *Phillips* v. *Iola Portland Cement Co.*, 125 Fed. 593. But complete monopoly is not essential. *Chicago, etc. Coal Co.* v. *People*, 214 Ill. 421. Nor is the fact material that the restraint is partial, in that the market controlled is small. *Craft* v. *McConoughy*, 79 Ill. 346. That the present prices fixed are reasonable does not make the contracts valid. *Central Ohio Salt Co.* v. *Guthrie*, 35 Oh. St. 666. Nor is the argument of weight that the contract prevents ruinous competition. *More* v. *Bennett*, 140 Ill. 69. The totality of public policy is the test. Hence, because they felt that public policy favored the restriction of liquor sales, some courts have sustained such agreements. *Anheuser-Busch Brewing Ass'n* v. *Houck*, 27 S. W. 692 (Tex.). Similarly, if courts cease to regard unrestricted competition as a *panacea* and unmixed blessing, they may find nothing against public policy in agreements between competitors fixing prices under some circumstances. *Park & Sons Co.* v. *National Wholesale Druggists' Ass'n*, 175 N. Y. 1; *Over* v. *Byram Foundry Co.*, 37 Ind. App. 452, 458.

SPECIFIC PERFORMANCE — AFFIRMATIVE CONTRACTS — CONTRACT FOR SALE OF EXPECTANT ESTATE. — A devised land to B in fee, provided she remained his widow; but if she should marry, then to C, D, and E. B, while still a widow, conveyed her estate to C and D; then D conveyed to C. E had agreed to sell her interest to C. C filed a bill to compel E to convey. *Held*, that the decree will not be granted. *Cummings* v. *Lohr*, 92 N. E. 970 (Ill.).

At common law, a contingent interest in land was not alienable to a stranger; it could, however, always be released to the one having the estate in possession. *Williams* v. *Esten*, 179 Ill. 267; WILLIAMS, REAL PROPERTY, 21 ed., 367. In the principal case C held the estate in possession, and as E had the only outstanding interest, his right to specific performance of the contract to convey would seem to be clear. C's position as the one in possession of the preceding estate was apparently not noticed, and the court, treating him as a stranger, denied relief. If C were to be treated as a stranger, the apparent impossibility of rendering an effective decree would seem to be the ground for refusing specific performance. A deed purporting to convey an expectant estate is treated as an executory contract enforceable only on the vesting of the estate. *Mudge* v. *Hammill*, 21 R. I. 283. A decree ordering such a conveyance would accomplish nothing. But this difficulty might be overcome, it is submitted, by a decree ordering a conveyance with covenant of warranty. *Cf. Robertson* v. *Wilson*, 38 N. H. 48. By estoppel, the estate would vest in the grantee if B married. Or a decree that the defendant convey when the estate vests would be equally effective. *Cf. Pegge* v. *Skynner*, 1 Cox Ch. 23.

STATUTE OF FRAUDS — PART PERFORMANCE — CONTRACT TO DEVISE LAND FOR PERSONAL SERVICES. — The plaintiff lived with the defendant's intestate, performing many personal services and submitting to strict theories of living, in consideration of a parol promise to devise the house to her. This was not done, but shortly before the intestate's death the keys of the house were given to the plaintiff. A recovery for most of the services in *quantum meruit* would be barred by the Statute of Limitations. *Held*, that specific performance of the contract should be granted. *Gladville* v. *McDole*, 93 N. E. 86 (Ill.).

It is well settled in England that performance of personal services of any sort will never take a parol contract for the conveyance of land out of the Statute of Frauds. *Maddison* v. *Alderson*, 8 App. Cas. 467. This is based on the doctrine that specific performance is granted only if the plaintiff's performance